

DRAFT-INTERNAL-DELIBERATIVE-DO NOT RELEASE

Treated Seed Petition Briefing

Office of Pesticide Programs
U.S. Environmental Protection Agency
October 13, 2021

Picture: <https://www.harrisseed.com/blogs/from-the-ground-up/guide-to-seed-treatments>

Overview of Presentation

- Treated Article Exemption
- Petition Background
- Issues Raised in the Petition
- Other Related Petitions
- Assessments Conducted by HED and EFED
- Options for Petition Response
- Implications
- Method of Response
- Rule Writing Time Estimate
- Other Considerations

Treated Article Exemption 40 CFR 152.25(a)

“Treated articles or substances.

An article or substance treated with, or containing, a pesticide to protect the article or substance itself (for example, paint treated with a pesticide to protect the paint coating, wood products treated to protect the wood against insect or fungus infestation) if the pesticide is registered for such use.”

Talking Points:

The treated article exemption was initially published in 1988.

Petition Background

- April 2017 – EPA received a petition filed by the Center for Food Safety (CFS) with and on behalf of beekeeper, farmer, and public interest groups.
 - Amend the treated article exemption to clarify that it does not apply to seed for planting coated with systemic pesticides since the pesticides are intended to kill pests of the plant instead of pests of the seed itself; or
 - Publish a formal Agency interpretation in the FR stating that EPA interprets the exemption not to apply to systemic pesticide-coated seeds; and
 - Enforce FIFRA's registration and labeling requirements for each systemic pesticide-coated seed product.
- December 2018 – Published FRN announcing petition
- December 2018 to March 2019 – Public comment period

Talking points:

Deliberative Process / Ex. 5

Other Related Petitions

- September 2020 – A similar treated seed petition from NRDC under review at California DPR.
 - October 2020 – Initial response stated that seeds treated with systemic pesticides are still considered exempt from registration.
- Other petitions in house that may intersect with/affect how EPA responds to the treated seed petition:
 - CFS (2012) – A Clothianidin registration/ESA consideration petition.
 - NRDC (2020) – A petition requesting the revocation of neonicotinoid tolerances.

Talking Points:

Deliberative Process / Ex. 5

Issues Raised in the Petition

- Characteristics of Neonicotinoid-Coated Seeds
- The Treated Article Exemption
- EPA's Coating Product Approvals
- Major Review and Studies on Harms of Coated Seeds
- Honey Bee Kills and Other Costs
- Harm to Threatened and Endangered Species
- Lack of Yield Benefits
- Aquatic Contamination
- Labels on Neonicotinoid-Coated Seed Bags and Tags
- Past Statements by EPA, USDA Officials, and Others
- Other Systemic Seed Coating Chemicals

Characteristics of Neonicotinoid-Coated Seeds

Deliberative Process / Ex. 5

Assessments: HED

Assessments would not be changed if treated seeds are registered.

Seed Treatment			
		What is assessed?	
		Food Use	Non Food Use
Dietary		Dietary exposure from seed treatment Set tolerance	No dietary exposure No tolerance set
Occupational	Handler (Food Use and Non Food Use)		Commercial Seed Treatment: Treater, Bagger, Sewer, Multiple activities On-Farm Seed Treatment: Treater Loader/Planter of Treated Seed HED ExpoSAC Policies 14 (unit exposures) and Policy 15.2 (amt seed treated/planted per day)
	Post-App		NA

Deliberative Process / Ex. 5

Assessments: EFED

Assessments would not be changed if treated seeds are registered.

Seed Treatment		
	What is assessed?	
	Aquatic	Terrestrial
Ecological Exposure	Invertebrates	Pollinators
	Fish	Mammals
		Birds
Environmental Loading	Runoff into surface waters	
Drinking Water Exposure	Abrasion of seed coating (qualitative)	

Options for
Petition
Response

Deliberative Process / Ex. 5

Implications: **Deliberative Process / Ex. 5**

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Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Implications: **Deliberative Process / Ex. 5**

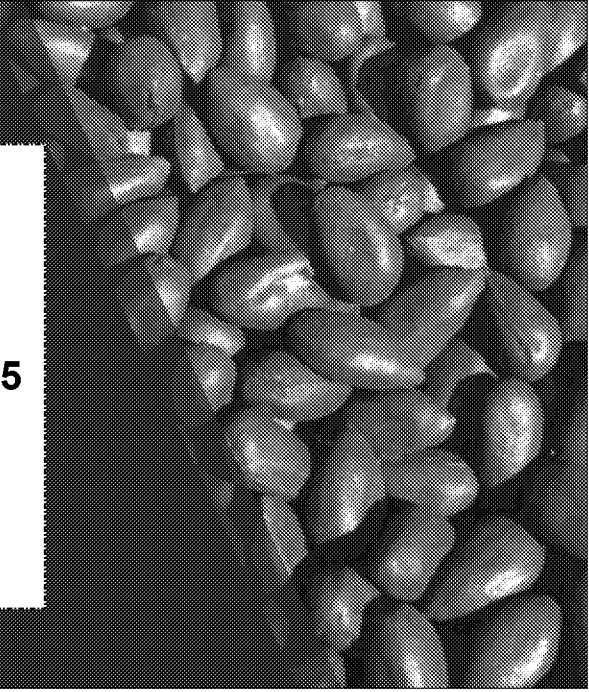
- **Deliberative Process / Ex. 5**
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Talking points:

Deliberative Process / Ex. 5

Method of Response

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- Deliberative Process / Ex. 5**



Talking Points:

Deliberative Process / Ex. 5

Rule Writing Time Estimate

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Deliberative Process / Ex. 5

Talking Points:

Deliberative Process / Ex. 5

Other Considerations and Decisions

Deliberative Process / Ex. 5

Talking Points:

Deliberative Process / Ex. 5

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Questions?

Appendix A: Regulatory History of Treated Articles

- 1988 – “Treated Article Exemption” – Section 152.25(a) is published and defines qualifying articles as:
 - the incorporated pesticide is registered for use in or on the article or substance, and;
 - the sole purpose of the treatment is to protect the article or substance itself.
- 2000 – PRN 2000-1: Applicability of the Treated Articles Exemption to Antimicrobial Pesticides
- 2000 – *“Harmonization of Treated Seed Policies and Requirements in Canada and the United States”*
 - Clarifies that the exemption to treated seeds only: “for the protection of the [seed] itself means that the pesticidal protection imparted to the treated seed does not extend beyond the seed itself.”

Talking Points:

Deliberative Process / Ex. 5